

EXHIBIT 1

INTRODUCTION

Respondent Naresh Kamboj was a member of the California Commission on Aging (the “Aging Commission”). He assumed office on December 6, 1999, and served on the Aging Commission until December 1, 2002. As a member of the Aging Commission, Respondent was a designated employee of the Aging Commission, as defined in section 82019, subdivision (c) of the Political Reform Act (the “Act”),¹ and in the conflict of interest code for the Aging Commission.

Under the Act and the conflict of interest code for the Aging Commission, each designated employee of the Aging Commission is required to file an annual statement of economic interests by April 1st of each year, unless April 1st falls on a Saturday, Sunday, or official holiday, in which case the filing deadline is extended to the next regular business day.² On the statement of economic interests, the designated employee must disclose his or her reportable economic interests held during the preceding calendar year.

For purposes of this Default Decision and Order, Respondent’s violations of the Act are stated as follows:

COUNT 1: As a designated employee of the California Commission on Aging, Respondent Naresh Kamboj failed to file a 2001 annual statement of economic interests by April 2, 2002, in violation of section 87300 of the Government Code.

COUNT 2: As a designated employee of the California Commission on Aging, Respondent Naresh Kamboj failed to file a Leaving Office statement of economic interests by December 31, 2002, in violation of section 87300 of the Government Code.

STATEMENT OF THE CASE

An enforcement action was initiated against Respondent Naresh Kamboj with a Report in Support of a Finding of Probable Cause being served on Respondent by certified mail and regular mail on September 26, 2003. Along with the Report in Support of a Finding of Probable Cause, Respondent was served with documents explaining the administrative enforcement process and informing him that he had 21 days in which to request a probable cause conference with the Executive Director of the Fair Political Practices Commission (the “FPPC”), and to file a written response to the probable cause report, to present any defenses that he may have.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

² Regulation 18116.

Respondent did not request a probable cause conference or file a written response to the probable cause report. On October 28, 2003, Executive Director Mark Krausse issued an Order Finding Probable Cause, as to each of the two counts alleged in the probable cause report. On October 29, 2003, the Order Finding Probable Cause was served on Respondent by mail.

On May 6, 2004, Respondent was personally served with an Accusation in this matter. Along with the Accusation, Respondent was served with a "Statement to Respondent," which explains the statutory requirement that Respondent must return a Notice of Defense within 15 days or else he will have waived his right to a hearing. Also served on Respondent were two copies of the Notice of Defense form, a copy of the Order Finding Probable Cause, and copies of the relevant portions of the Act.

Respondent did not file a Notice of Defense within the fifteen-day response period, and the Enforcement Division has not received any communication from Respondent since he was served with the Accusation, or at any other time in this matter.

THE ADMINISTRATIVE PROCEDURE ACT

Pursuant to the California Administrative Procedure Act (the "APA")³, a respondent is entitled to a hearing on the merits of an Accusation if the respondent files a Notice of Defense within 15 days after service of the Accusation. (Section 11506.) The APA further provides that a respondent's failure to file a Notice of Defense within 15 days after service of an Accusation constitutes a waiver of the respondent's right to a hearing. (Section 11506, subdivision (c).) A default decision may be issued if the respondent fails to file a Notice of Defense within 15 days of service of the Accusation (Section 11520, subdivision (a).)

On May 6, 2004, an Accusation in this matter was personally served on Respondent. Proof of service of the Accusation is attached hereto as Attachment A. Along with the Accusation, the Enforcement Division served Respondent with a "Statement to Respondent," which notified him that he could request a hearing on the merits and warned him that, unless he filed a Notice of Defense within fifteen days of service of the Accusation, he would be deemed to have waived his right to a hearing. Respondent has failed to file a Notice of Defense.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (c), is to ensure that the assets and income of public officials, that may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided.

In furtherance of this purpose, section 87300 requires every agency to adopt and promulgate a conflict of interest code. Section 87302, subdivision (a) provides that an agency's conflict of interest code must specifically designate the employees of the agency who are required to file statements of economic interests, disclosing their reportable investments, business positions, interests in real property, and sources of income. Under section 82019,

³ The California Administrative Procedure Act is contained in Government Code sections 11370 through 11529.

subdivision (c), and section 87302, subdivision (a), the persons who are to be designated in an agency's conflict of interest code are the officers, employees, members, and consultants of the agency, whose position with the agency entails making, or participating in making, governmental decisions that may foreseeably have a material effect on one or more of the person's economic interests.

Section 87302, subdivision (b) provides that an agency's conflict of interest code must require each designated employee to file an annual statement of economic interests, for each year that the employee remains in office, at a time specified in the agency's conflict of interest code, disclosing his or her reportable economic interests held during the preceding calendar year. Additionally, the agency's conflict of interest code must require each designated employee to file a statement of economic interests within 30 days of leaving office, disclosing his or her reportable economic interests for the period between the closing date of the last statement required to be filed and the date of leaving office.

Under section 87300, the requirements of an agency's conflict of interests code shall have the force of law, and any violation of those requirements shall be deemed a violation of the Act.

SUMMARY OF THE FACTS

According to records maintained by the Aging Commission, Respondent assumed office as a member of the Aging Commission on December 6, 1999, and served on the Aging Commission until December 1, 2002.

At all relevant times to this matter, Respondent was a member of the Aging Commission.

COUNT 1

Failure to Timely File a 2001 Annual Statement of Economic Interests

Under the provisions of the Aging Commission's conflict of interest code, a member of the Aging Commission is a designated employee, and therefore required to file an annual statement of economic interests for each year that he or she remains in office, by April 1st of the following year, unless April 1st falls on a Saturday, Sunday, or official holiday, in which case the filing deadline is extended to the next regular business day.⁴ As such, Respondent Naresh Kamboj was required to file a 2001 annual statement of economic interests by April 2, 2002, because April 1st fell on a holiday that year.

During an August 22, 2002 interview, Sylvia Kempton, the filing official for the Aging Commission, told Mary Ann Kvasager, the SEI Coordinator for the Enforcement Division, that the executive director of the Aging Commission faxed a letter to Respondent during the first week of March 2002, notifying him of the April 2, 2002 filing deadline for his 2001 annual statement of economic interests.

⁴ Regulation 18116.

According to the records maintained by the SEI Unit of the FPPC's Technical Assistance Division (the "SEI Unit"), Respondent failed to file a 2001 annual statement of economic interests by the April 2, 2002 due date.

On April 24, 2002, Emily Bowden, of the SEI Unit, sent a letter to Respondent, advising him that his 2001 annual statement of economic interests was past due, and requesting that it be filed within 30 days. On June 27, 2002, Ms. Bowden sent another letter to Respondent, advising him that his 2001 annual statement of economic interests remained past due, and requesting that it be filed within ten days. The letter further advised Respondent that the matter would be referred to the FPPC's Enforcement Division, if the delinquent statement was not received within ten days.

When the statement was not filed in response to her written notices, Ms. Bowden referred the matter to the Enforcement Division.

According to investigative records maintained by the Enforcement Division, on August 20, 2002, Ms. Kvasager, the SEI Coordinator for the Enforcement Division, contacted Respondent by telephone, advising him that his 2001 annual statement of economic interests was past due, and instructing him to file the statement immediately.

Records maintained by the SEI Unit establish that Respondent filed his 2001 annual statement of economic interests on August 29, 2002, more than four months late.

By failing to file a 2001 annual statement of economic interests by the April 2, 2002 due date, Respondent violated section 87300.

COUNT 2

Failure to Timely File a Leaving Office Statement of Economic Interests

Under the provisions of the Aging Commission's conflict of interest code, a member of the Aging Commission is a designated employee, and therefore required to file a statement of economic interests within 30 days of leaving office. As such, Respondent Naresh Kamboj, who left office on December 1, 2002, was required to file a leaving office statement of economic interests by December 31, 2002.

On December 1, 2002, Raymond Mastalish, the executive director of the Aging Commission, sent a letter to Respondent, informing him that he was required to file a leaving office statement of economic interests by December 31, 2002.

According to the records maintained by the SEI Unit, Respondent failed to file a leaving office statement of economic interests by the December 1, 2002 due date.

On January 14, 2003, Emily Bowden, of the SEI Unit, sent a letter to Respondent,

advising him that his leaving office statement of economic interests was past due, and requesting that it be filed within 30 days. On February 6, 2003, Ms. Bowden sent another letter to Respondent, advising him that his leaving office statement of economic interests remained past due, and requesting that it be filed within ten days. The letter further advised Respondent that the matter would be referred to the Enforcement Division, if the delinquent statement was not received within ten days.

According to the records maintained by the SEI Unit, Respondent has not filed a leaving office statement of economic interests.

By failing to file a leaving office statement of economic interests by the December 31, 2002 due date, Respondent violated section 87300.

CONCLUSION

This matter consists of two counts of violating section 87300, which carries a maximum administrative penalty of Ten Thousand Dollars (\$10,000). Under the SEI Expedited Procedures adopted by the FPPC in July 1999, the approved administrative penalty for a person, such as Respondent, who files a delinquent statement of economic interests within 30 days of being contacted by the SEI Coordinator for the Enforcement Division, and agrees to an early resolution of his or her case, is \$200-\$300. However, unlike those cases, Respondent did not agree to an early resolution of this matter and did not bring himself into full compliance with the Act. His case was therefore removed from the SEI Expedited Procedures program.

The administrative penalty for SEI filing violations resolved outside of the SEI Expedited Procedures program historically has been determined on a case-by-case basis, considering the aggravating and mitigating factors present. In recent cases where a respondent filed a delinquent statement within 30 days of being contacted by the Enforcement Division SEI Coordinator, but failed to respond to any of the Enforcement Division's attempts to resolve the matter until after the issuance and service of an accusation, the FPPC imposed an administrative penalty of \$600 for the SEI filing violation.

In this case, Respondent filed his delinquent 2001 annual statement within 30 days of being contacted by the Enforcement Division SEI Coordinator, but has not filed a leaving office statement. Furthermore, Respondent failed to respond to any of the Enforcement Division's attempts to resolve the matter. Therefore, a higher penalty that reflects the aggravating factors of the case, as well as Respondent's continuing non-compliance with the Act, is appropriate.

Accordingly, the facts of this case justify imposition of an administrative penalty of One Thousand Five Hundred Dollars (\$1,500) for Count One, and Two Thousand Dollars (\$2,000) for Count Two, for a total administrative penalty of Three Thousand Five Hundred Dollars (\$3,500).